

Exhibit A

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE JUDGE NANDOR J. VADAS

USA,)
vs.)
Plaintiff,)
CAROL J. QUITMEYER,)
Defendant.)
) No. CR 07-00296
) MAG-1
) San Francisco, CA
) Friday, 10-19-07
) 2:06 p.m.
)
)

TRANSCRIPT OF PROCEEDINGS

(Evidentiary Hearing)

APPEARANCES:

For Plaintiff:  US Attorney's Office
Northern Dist. of California
450 Golden Gate Avenue
San Francisco, California 94012
BY: **WENDY MAY THOMAS, ESQ.**
-and- LAURA TERLOUW, LAW CLERK

For Defendant: Office of the Public Defender
450 Golden Gate Avenue - 19th Fl
San Francisco, California 94102
BY: **ELIZABETH MEYER FALK, ESQ.**

Reported By: *Margaret "Margo" Gurule, CSR 12976,
Pro Tem Reporter - US District Court*

Margaret "Margo" Gurule, CSR 12976,

Pro Tem Reporter - US District Court

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MARGARET "MARGO" GURULE, CSR
Pro Tem Reporter - US District Court

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1 San Francisco, California; Friday, October 19, 2007; 2:06 p.m.

2 Courtroom C, 15th Floor; MAGISTRATE JUDGE NANDOR J. VADAS

3 -00o-

4 THE CLERK: Calling Case C-07-00296, USA vs. Carol
5 Quitmeyer. Counsel, please come to the podium and say your
6 name for the record.

7 MS. TERLOUW: Good afternoon, Your Honor. Laura
8 Terlouw, Law Clerk for the United States. I'm joined by Wendy
9 Thomas and Ranger Hardin from the National Parks Services, who
10 is prepared to testify as to the facts at issue.

11 THE COURT: Good afternoon.

12 MS. FALK: Good afternoon, Your Honor. Elizabeth
13 Falk, on behalf of Carol Quitmeyer. She is present. Also
14 present is our investigator, Frederick Anderson.

15 THE COURT: All right. Why don't you proceed,
16 Counsel. It's your motion.

17 MS. FALK: And I do understand that, Your Honor.
18 Typically, I ask the Government, since it's their burden under
19 the Fourth Amendment, to present its witnesses first.

20 THE COURT: All right. Are you prepared to proceed,
21 Counsel?

22 MS. TERLOUW: Yes, we are.

23 THE COURT: All right. First witness, please.

24 MS. TERLOUW: Let me call Ranger Michael Hardin.

25 THE CLERK: Please raise your right hand.

1 (The witness is sworn.)

2 MICHAEL HARDIN,

3 called as a witness by the Government, having been first duly
4 sworn, was examined and testified as follows:

5 THE CLERK: Please be seated. State your full name
6 and spell your last name, please.

7 THE WITNESS: Michael Connally Hardin, H-A-R-D-I-N.

8 DIRECT EXAMINATION

9 BY MS. FALK:

10 Q. Good afternoon. Ranger Hardin, where are you
11 employed?

12 A. I'm employed by the National Parks Service at Golden
13 Gate National Recreation Area.

14 Q. And what is your position there?

15 A. I am a law enforcement park ranger.

16 Q. Okay. How long have you been employed there?

17 A. I have been employed at Golden Gate for almost a
18 year, but I've been with the National Parks Services for 11
19 years.

20 Q. And what are your duties and responsibilities
21 currently?

22 A. I provide law enforcement services as well as EMS,
23 fire and search and rescue services.

24 Q. What is your training and experience particularly
25 regarding investigations and arrests?

1 A. I'm a graduate of the Federal Law Enforcement
2 Training Center. I've also had four years as a military
3 policeman, and I've been to three law enforcement academies.

4 Q. And how many arrests have you handled over the course
5 of your career?

6 A. Of my own arrests, about 100. I spent three years on
7 the Mexican border, and if you add immigration into that, about
8 2,000 apprehensions.

9 Q. How many DUI arrests, approximately, driving under
10 the influence, arrests have you conducted?

11 A. Approximately 30.

12 Q. And do you have any training regarding arrests for
13 driving under the influence?

14 A. Yes, I do. In 1997, I attended a national Highway
15 Traffic Safety Administration-approved standardized field
16 sobriety.

17 Q. Thank you. Directing your attention to the evening
18 of January 13, 2007, in the vicinity of the north anchorage of
19 the Golden Gate Bridge, were you on duty at that date, time and
20 location?

21 A. Yes, I was.

22 Q. Please tell the Court what happened that evening.

23 A. I was conducting a patrol of the security area
24 surrounding the north anchorage of the bridge. And I had
25 reached the bottom of Lower Conzelman Road where there is a

1 gate and let myself out, when I saw headlights come around the
2 corner from the area near the fishing pier at Ft. Baker and
3 enter the series of serpentine barriers that were outside the
4 security gate.

5 The vehicle went about halfway through the barriers,
6 then started to turn around, and its progress was impeded by
7 the barriers on the edge of the roadway.

8 Q. Okay. And then what happened?

9 A. I -- when the car stopped and began to maneuver to
10 turn around, I walked downwards the car. This was unusual
11 activity. Most people don't drive into these barricades.

12 I had my flashlight. I shined my flashlight at the
13 car to try to attract the driver's attention. It didn't appear
14 to work. As I got a little close, I shouted, again trying to
15 attract the driver's attention. It didn't appear to work,
16 either.

17 By the time I got within close proximity to the car,
18 it was about half turned with the rear of the car towards the
19 edge of the road. There is a hill and a ditch there. The
20 front of the car was impeded by the end of one of the Jersey
21 barriers that made up the serpentine barrier, and the driver
22 was rocking the car back and forth, appearing to try to make a
23 multiple-point turn, but again was impeded by the barrier.

24 Q. Okay.

25 A. At that point, I knocked on the window because all my

1 other efforts to get her attention didn't work.

2 Q. Was this the passenger side window or the driver side
3 window that you knocked on?

4 A. The passenger side window.

5 Q. Okay. And then what happened?

6 A. The driver leaned over and rolled the window down,
7 but her actions lacked -- say they were a little uncoordinated.
8 I saw that her eyes were bloodshot.

9 She told me that she was lost and trying to get to
10 Sausalito. But she spoke with a very slow, deliberate tempo,
11 all indicators, from my experience, that she may be under the
12 influence of alcohol.

13 Q. Okay. Let the record reflect I am holding in my hand
14 a one-page document marked Government's 1 for identification.

15 MS. TERLOUW: Your Honor, may I approach the witness?

16 THE COURT: You may. Have you shown it to defense
17 counsel?

18 MS. TERLOUW: Yes.

19 MS. FALK: I have been previously provided a copy.
20 Thank you, Your Honor.

21 THE COURT: Thank you.

22 MS. TERLOUW: Let the record reflect I'm handing the
23 document to the witness.

24 THE COURT: Well, first why don't you mark it?

25 MS. TERLOUW: Okay. It's marked as Exhibit 1. I

1 offer into evidence Government's 1 for identification.

2 THE COURT: Well, mark it first. Let him describe
3 it.

4 MS. THOMAS: It is marked with blue.

5 THE COURT: All right. Then let him describe it.

6 BY MS. TERLOUW:

7 Q. Okay. All right. Officer Hardin -- Ranger Hardin --
8 excuse me -- do you recognize this document?

9 A. Yes, I do.

10 Q. And what do you recognize it to be?

11 A. It's an aerial photograph of the area of the stop
12 that night.

13 Q. Is this a fair and accurate reflection of the area at
14 the time of the arrest?

15 A. Yes, it's -- yes, fair and accurate.

16 Q. Okay. And can you mark your vehicle's location on
17 the map with a Number 1 where you were when you first saw the
18 car coming towards you?

19 A. Yes, I can.

20 MS. FALK: Your Honor, may I just observe what the
21 witness is doing?

22 THE COURT: Sure.

23 MS. FALK: Okay. I appreciate it.

24 BY MS. TERLOUW:

25 Q. And can you also mark the location of Ms. Quitmeyer's

1 vehicle with a Number 2.

2 A. Yes.

3 THE COURT: Do we have an easel?

4 THE CLERK: It's in another courtroom. I can go get
5 it.

6 THE COURT: We're just going to take a quick break
7 for a moment.

8 *(Brief recess was taken.)*

9 THE COURT: Thank you. Why don't we attach that
10 exhibit on to the easel in one way or another. Then everybody
11 can see it.

12 MS. TERLOUW: Do you need a piece of tape?

13 THE COURT: Ranger, if you need to leave your seat to
14 mark the exhibit, feel free to go back and forth.

15 MS. FALK: Your Honor, can the Court still see the
16 exhibit?

17 THE COURT: I can see it just fine.

18 MS. TERLOUW: Okay.

19 THE WITNESS: Okay.

20 MS. TERLOUW: At this time, I would like to move into
21 evidence what has previously been marked as Exhibit 1.

22 MS. FALK: No objection.

23 THE COURT: It will we moved into evidence at this
24 time.

25

1 BY MS. TERLOUW:

2 Q. Ranger Hardin, can you describe about how many
3 barriers there were on the evening in question in place at the
4 time?

5 A. About a half dozen or so.

6 Q. And about how tall and wide or long were these
7 barriers?

8 A. They're about 3 feet tall, 8 feet wide or so. It's a
9 standard concrete barrier that you see along the highway.

10 Q. Okay. Do you know why these barriers were in place?

11 A. They're a security measure put in place to not allow
12 vehicle traffic to gain enough speed to be able to ram through
13 the gate.

14 Q. And the security gate, that's the gate you're
15 referencing?

16 A. Yes.

17 Q. And approximately how far away is the security gate
18 from the barriers?

19 A. Oh, 50 yards or less, I would say.

20 Q. Were these barriers subsequently taken down?

21 A. Yes, they were.

22 Q. Do you know approximately when that happened?

23 A. It was in the springtime, sometime between March and
24 May.

25 Q. And why that decision was made, are you aware of that

1 decision?

2 A. A better gate was put into service. They were no
3 longer needed.

4 Q. Okay. When you saw Ms. Quitmeyer's vehicle,
5 approximately how much space was there between the barricades,
6 the ditch and her vehicle?

7 A. Not much. A foot, maybe.

8 Q. Okay. And you testified that you flashed your
9 flashlight in her direction to attract her attention?

10 A. Yes.

11 Q. What was her reaction to this?

12 A. I saw no reaction.

13 Q. Okay. And when you spoke aloud to her, did you see a
14 reaction at that time?

15 A. No reaction that time, either.

16 Q. Okay. And when you knocked on the window, you
17 mentioned Ms. Quitmeyer's demeanor. Can you elaborate at all
18 on her response to your knocking?

19 A. Well, she leaned over to the passenger side and
20 rolled the window down.

21 Q. Did she object to anything at any point?

22 A. No, she did not.

23 Q. She did not object to any of your questions of her?

24 A. No.

1 MS. TERLOUW: Your Honor, at this time the Government
2 has no further questions.

3 THE COURT: All right. Counsel.

4 MS. FALK: Thank you, Your Honor. Your Honor, as a
5 courtesy for the witness, I've prepared a binder for the bench
6 that contains the same documents that the Court received at the
7 last calling of the case. I don't know if you'll need this or
8 not. I'm just going to --

9 THE WITNESS: Okay.

10 CROSS EXAMINATION

11 BY MS. FALK:

12 Q. Now, Ranger Hardin, these barricades were not
13 obviously placed across the entire road, correct?

14 A. That's correct.

15 Q. They basically came to enough of the road where a
16 vehicle could still navigate around them?

17 A. Right. The intention was to slow the vehicle down.
18 So you have to negotiate these barriers. You can't just drive
19 really fast towards the gate and crash through it is, is the
20 idea.

21 Q. And there was no sign at the beginning of the
22 barricades that said, "Stay out, don't continue," of that
23 nature?

24 A. That's correct.

25 Q. There is no flashing lights there warning anybody

1 that crossing into that area was somehow wrongful?

2 A. No.

3 Q. And in fact, you had navigated those barriers
4 yourself to get to the --

5 MS. FALK: May I approach the stand, Your Honor?

6 THE COURT: Uh-huh.

7 BY MS. FALK:

8 Q. You had navigated those barriers yourself most likely
9 to get to this gate area from which you were coming from?

10 A. I had done that in the past. That night I came from
11 the top.

12 Q. And I'm sorry, when you say you came from the top,
13 can you just --

14 A. Yeah, the other end of the road. I could show you on
15 the map.

16 Q. Yeah, if you could just point that out, because I was
17 a little -- your testimony is a little unclear at that point
18 about what side you approached from.

19 A. Actually, it's not on the photograph here. But up
20 here there is a parking lot, right next to the bridge, right at
21 the -- this is the Alexander onramp from Southbound 101. This
22 road is Lower Conzelman Road, and it continues up to that
23 parking lot. So there is another gate set up like this one up
24 here. I entered from uphill, and I drove down. And I was
25 exiting down.

1 Q. So you approached the scene from the side of the
2 Golden Gate Bridge?

3 A. Yes, I did.

4 Q. Now, Agent Hardin, your report references a ditch.
5 That's right?

6 A. Yes.

7 Q. And in fact, there is a ditch there, right?

8 A. Right.

9 Q. And it's a concrete ditch?

10 A. Yes.

11 Q. Now, I'm going to show you -- and if you could open
12 the bench book, please -- what's been marked as Defense
13 Exhibit B-1?

14 THE COURT: Does Counsel for the Government have a
15 copy of this book?

16 MS. TERLOUW: I do.

17 MS. FALK: Yes, Your Honor, and I'll just state for
18 the record I have previously provided to Government's Counsel
19 all exhibits that I'm referencing here. I just added Exhibit
20 L. So the Court should note that.

21 Q. Ranger Hardin focusing on the right-hand side of the
22 photograph, is that the ditch that you were referring to in
23 your testimony?

24 A. Yes, it is.

25 Q. And that ditch is fairly deep, isn't it?

1 A. It is, yes.

2 Q. And that ditch, looking at this picture, Government's
3 Exhibit 1, that ditch extends approximately how far back along
4 this road where the barriers used to be laid out?

5 A. I couldn't say precisely, but it -- I don't know if
6 it extends all the way through where the barriers were, but it
7 extends into them at least to the middle.

8 Q. So it extends to the area where Ms. Quitmeyer was
9 located?

10 A. Yes.

11 Q. Now, when you were earlier testifying, you mentioned
12 that the car was stuck, right?

13 A. Yes.

14 Q. The car was stuck in the ditch?

15 A. It wasn't in the ditch, it was bounded by the ditch.

16 Q. And when you say "bounded," I'm just a little bit
17 confused about what you actually mean by that.

18 A. Had the car backed up a little bit further, the rear
19 wheels would have been in the ditch, likely that it would have
20 high-centered and been unable to get out by itself.

21 Q. So the car wasn't stuck?

22 A. It wasn't stuck. It was wedged, bounded, obstruct
23 objected.

24 Q. And I'm not trying to quibble with you about
25 terminology, but I'm genuinely confused. "Stuck." You would

1 agree with me that "stuck" means that the vehicle can't move?

2 A. Yes.

3 Q. And this vehicle was moving, right?

4 A. A few inches, yes.

5 Q. And Ms. Quitmeyer was attempting to turn around?

6 A. I believe so, yes.

7 Q. And the vehicle was not in the ditch?

8 A. The vehicle was not in the ditch. The vehicle was
9 unable to proceed because of the barriers that were around it.

10 Q. And that's what I'm trying to understand. It's not
11 clear to me what you're actually saying happened in that
12 regard.

13 A. Okay. Maybe this way: The vehicle was placed such
14 that there was a barrier behind it, the ditch. There was a
15 barrier in front of it, one of the Jersey barriers, and the
16 operator was unable to get the vehicle out of the position that
17 it was in.

18 Q. Okay. And perhaps if you could use Government's
19 Exhibit 1 to better illuminate that?

20 A. This was the position of the car. The rear of the
21 car was towards the wall. You can kind of see the ditch right
22 there. The front of the vehicle was facing the end of this
23 barrier right there. So there wasn't enough room to pull
24 forward and pull out. There wasn't enough room to go backwards
25 very far. And so the defendant was backing the car up and

1 pulling forward repeatedly, as if to make like a three-point
2 turnaround where you back up and then turn the wheels and pull
3 forward and move the front of the car and then, you know, back
4 up again, take another bite at it. But she was just moving
5 back and forth three to five times while standing there, not
6 making any headway.

7 Q. Okay. In your estimation, she wasn't making any
8 headway?

9 A. True.

10 Q. So you never observed her stuck in the ditch? That
11 wasn't your observation?

12 A. That wasn't my intention with that verbiage, no.

13 Q. Now, let's -- I would like to move forward now to
14 discuss the approach of Ms. Quitmeyer's car. Your -- you were
15 driving up to the gate. And had you actually opened the gate
16 to allow your car through before you saw her car?

17 A. No, I had not.

18 Q. So, continue.

19 A. I was standing at the gate, getting my keys out to
20 open the gate when I saw her approach.

21 Q. And were your headlights on?

22 A. Probably they were. I would -- I can't say for
23 certain, but they should have been, yes.

24 Q. And so --

25 A. I don't remember now.

1 Q. So your headlights would have been flashing in this
2 direction?

3 A. Yes.

4 Q. And for the record, I mean the direction facing back
5 towards the pier, towards the beginning of the barricade. And
6 you approached Ms. Quitmeyer's vehicle, then, on foot?

7 A. Yes, I did.

8 Q. And you had your flashlight?

9 A. Correct.

10 Q. And you shined your flashlight on the car?

11 A. Right.

12 Q. You ordered the car to stop?

13 A. Yeah. I was using verbal, you know, loud, verbal --
14 I don't know if you would call it a command or whatever. But I
15 was trying to get her attention.

16 Q. And she continued what she was doing?

17 A. Yes.

18 Q. And you approached her car?

19 A. Right.

20 Q. With flashlight in hand?

21 A. Right.

22 Q. And you were in uniform?

23 A. Correct.

24 Q. And you knocked on the window?

25 A. Yes.

1 Q. And can you just -- when you knocked -- when you
2 knocked on the window, you knocked like most --

3 A. Yes.

4 Q. -- as if you were knocking on the door?

5 A. (Demonstrating).

6 Q. Like (demonstrating)?

7 A. Right.

8 Q. And you looked inside the vehicle?

9 A. Yes.

10 Q. And you were wearing the exact same outfit you're
11 wearing now?

12 A. Dressed as I am today.

13 Q. With your gold badge?

14 A. Yes.

15 Q. And your nameplate on the front of your shirt?

16 A. Yes.

17 Q. All right. And you told her to roll down the window?

18 A. I don't recall telling her to roll down the window.

19 Q. You don't recall one way or the other?

20 A. Correct.

21 Q. The result of your knocking and whatever was said but
22 that you can't remember caused Ms. Quitmeyer to roll down the
23 window?

24 A. Correct.

25 Q. And after that, she was cooperative with you?

1 A. Yes.

2 Q. Now, when you were approaching her car -- and you
3 just testified that you gave loud, verbal commands. I'm going
4 to ask you a little bit about those commands. And do you have
5 a course of practice of approaching cars?

6 A. Yes, I do.

7 Q. And you probably have language that you use
8 repeatedly; is that fair to say?

9 A. Yes.

10 Q. And you're probably trained in these procedures,
11 right?

12 A. Yes.

13 Q. And you need to take caution when approaching cars,
14 I'm sure? That's all part of your training?

15 A. Correct.

16 Q. So you yelled "Stop"?

17 A. I don't recall what I yelled, but I was trying to use
18 voice to get the driver's attention, yes.

19 Q. Do you remember the words that you said?

20 A. No, I don't.

21 Q. You don't remember if you said the word "stop"?

22 A. It could well have been "stop," because it seems an
23 appropriate thing to say.

24 Q. Let me ask you this, Officer Hardin: Your intention
25 was to try to get the vehicle to stop moving, correct?

1 A. Correct. I had several concerns.

2 Q. And your primary one was first to get her to stop
3 moving?

4 A. Right.

5 Q. Okay. And so, in reflecting on the course of your
6 experience as a trained officer, in those types of
7 circumstances, is it reasonable that you probably yelled "stop"
8 or said "stop" or something of that nature to try to get the
9 stop vehicle to stop?

10 A. It's reasonable. I just can't testify that that's
11 what I said because I don't remember.

12 Q. And even reflecting on the course of your experience,
13 that doesn't help refresh your recollection over the events of
14 that night?

15 A. Of this specific event, no. But it is reasonable to
16 assume that that could be what I said.

17 Q. So Officer Hardin, just one last point: The windows
18 were up at the point that you made your verbal commands?

19 A. Yes. At least the passenger side window was
20 definitely up.

21 Q. And this was in January, right?

22 A. Yes.

23 Q. So it was pretty cold outside?

24 A. Yes, it's cold.

25 Q. And it's dark in that area of the Baker -- is that

1 still considered Baker Road, sir, or is that --

2 A. That's -- I believe it's Miller Road coming towards
3 the pier. The road that goes under the bridge is Lower
4 Conzelman Road.

5 Q. And are there lights right in this area?

6 A. There are lights by this second gate, if you move
7 your finger down just a little bit to the next.

8 Q. I'm sorry. Maybe it would be easier for the judge if
9 you did it?

10 A. I believe there are lights right here, and there is a
11 second gate right here that blocks access. I believe there are
12 lights here, security lights, not streetlights, security
13 lights.

14 Q. But back where these barricades used to be, was there
15 streetlights there?

16 A. No, there's no lights there.

17 MS. FALK: Your Honor, I don't have any further
18 questions.

19 MS. THOMAS: Your Honor, two questions.

20 THE COURT: Please.

21 MS. THOMAS: Ranger Hardin, just a couple of
22 questions.

23 REDIRECT EXAMINATION

24 BY MS. THOMAS:

25 Q. When you flashed the flashlight at the defendant to

1 get her attention, did she show any indication that she had
2 seen you?

3 A. No.

4 Q. And when you used vocal commands to try and get her
5 attention, any indication that she heard you?

6 A. No.

7 MS. THOMAS: No further questions.

8 THE COURT: The Court has a few questions. The road
9 that you described as Miller Road, this frontage road which is
10 in Government's 1, when you first saw the defendant, she was
11 coming southbound on that road?

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: How do you get to that point?

14 THE WITNESS: You can get there from Sausalito.
15 Alexander Avenue, at the south end of Sausalito, there is an
16 east road by the sewer plant that comes into Ft. Baker, which
17 is this area up here which would be above and to the right of
18 the photograph, or you can get there from Bunker Road, which
19 comes down where the Baker Berry Tunnel is. So there's two
20 ways you can get there.

21 THE COURT: And from the Alexander exit, about how
22 far is that from where you first saw the defendant?

23 THE WITNESS: Near Sausalito? Two-thirds of a mile,
24 maybe.

25 THE COURT: And it's 180 degrees opposite from where

1 Sausalito is; is that correct?

2 THE WITNESS: Yes, it is.

3 THE COURT: And when Ms. Quitmeyer rolled down the
4 window, you indicated that her speech appeared to be somewhat
5 slow?

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: And that you observed that she had
8 bloodshot eyes; is that correct?

9 THE WITNESS: That's correct, Your Honor.

10 THE COURT: Were you close enough to her at that time
11 to smell her breath?

12 THE WITNESS: I was close, but I didn't smell
13 anything.

14 THE COURT: Okay. What was her attitude like when
15 you initially -- on your initial contact with her?

16 THE WITNESS: I would say maybe a little harried.

17 THE COURT: Now, you indicated something called a
18 Jersey barrier. Were those the concrete barriers, the regular
19 barriers that we see in the middle of the highway that
20 separates both Number 1 lanes?

21 THE WITNESS: Yes.

22 THE COURT: When you got out of your vehicle -- could
23 you describe the vehicle you were driving that night?

24 THE WITNESS: It's a white Crown Victoria police car
25 with a green stripe down the side and an arrowhead on the door